

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Theodore C. Lockhart,**  
Petitioner-Appellant.

v.

**City of Cedar Rapids Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-101-0846**  
**Parcel No. 11351-27003-00000**

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On December 1, 2011, the above-captioned appeal came on for a telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Theodore C. Lockhart (Lockhart) submitted evidence in support of his petition. He was self-represented. City Attorney James H. Flitz is counsel for the Board of Review, but City of Cedar Rapids Deputy Assessor Tom Lee represented it hearing. The Board of Review submitted evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Lockhart, owner of property located at 7104 Brentwood Drive NE, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story, frame dwelling having 1456 square feet of above-grade living area, a full basement with 520 square feet of finish, and a 420 square-foot attached garage built in 1976. The property has a 64 square-foot, wood deck; a 33 square-foot, concrete stoop; and a 232 square-foot screen porch. The dwelling has a good quality grade (3-10) and is in normal condition. The property has 18% physical depreciation and a 13% obsolescence

adjustment. The improvement is situated on a 0.215 acre site in the Bowman Woods Subdivision, which is in the Northeast quadrant of Cedar Rapids.

The real estate was classified as residential on the January 1, 2011, assessment and valued at \$152,000, representing the \$23,068 land value and \$128,932 in dwelling value.

Lockhart protested to the Board of Review on the grounds that the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a), that the property was assessed for more than authorized by law under section 441.37(1)(b), that there is an error in the assessment under section 441.37(1)(d), and that there has been a change in value since the last reassessment under sections 441.37(1) and 441.35. In a reassessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). We only consider the grounds of equity, over-assessment, and error. He claimed \$129,211 was the actual value and a fair assessment of the property as of January 1, 2011. The Board of Review denied the protest.

Lockhart then appealed to this Board claiming the same grounds and seeking an assessment of \$129,211. He later requested an assessment of \$103,307 in his exhibits to this Board.

Lockhart offered five properties he considered equity comparables. The selection of the properties was based on similar size (approximately 1100 square feet of living area) and location (north of Boyson and directly on Brentwood Drive). He averaged the assessed value of the properties and arrived at an average assessment of \$129,111 as compared to his assessment of \$152,000. In his opinion, this justifies a reduction of \$22,789 in his assessment. While the selected comparables are similar to the subject property in location and age, they include three, split-foyer dwellings that are dissimilar from the subject property. The two, one-story dwellings are assessed at \$122.35 and \$126.24 per square foot, well above the subject property's assessed value of \$104.39 per square foot.

We also note that comparables one through four have smaller sites than the subject property, most have fewer plumbing fixtures, and four lack fireplaces. More importantly, the subject property has 376 square feet more of living area than the average comparable property and is assessed at a lower value per-square foot than all the identified properties. The following chart is a summary of his information and the total living area comparisons.

Address	Assessed Value	TSFLA	Yr Built	Design	AVPSF
6811 Brentwood Dr NE	\$ 132,312 <sup>1</sup>	1083	1973	Split Foyer	\$ 122.17
6805 Brentwood Dr NE	\$ 125,677	1092	1973	Split Foyer	\$ 115.09
6824 Brentwood Dr NE	\$ 131,286	1040	1973	One Story	\$ 126.24
6829 Brentwood Dr NE	\$ 128,521	1092	1974	Split Foyer	\$ 117.69
6723 Brentwood Dr NW	\$ 133,609	1092	1973	One Story	\$ 122.35
AVERAGE	\$ 130,281	1080			\$ 120.63
Subject Property	\$ 152,000	1456	1976	One Story	\$ 104.39
Equity Reduction Requested	\$ (22,789)				
	\$ 129,211				

To support his claim of over-assessment, Lockhart offered statistics from the website Zillow indicating a median list price of \$126,500 in four nearby zip codes (52402, 52403, 52404 & 52405),<sup>2</sup> reflecting a 6.3% decline in the past year. We do not find these statistics reliable because they compare list prices over a five-year period, not current sale prices, and do not exclude abnormal sale conditions such as foreclosures.

Lockhart also identified five sales of similar size, style, age, and location within the same neighborhood that occurred in late 2009 and 2010. Two of the sales, 6806 and 6921 Brentwood NE, are also identified by the Board of Review in its market analysis. Lockhart compared the sale prices to the assessments of these properties to show a pattern of over-assessment averaging 6.02%. He

<sup>1</sup> This is the 2011 assessment for 6811 Brentwood Dr NE. The 2010 assessment listed by Lockhart was \$126,962. This changes the averages in his exhibits.

<sup>2</sup> Documents in the file, including correspondence to and from Lockhart list his zip code as 52401, other documents list his zip code as 52402. We note zip code 52401, which showed a market increase, was excluded from the Zillow search criteria.

calculated a similar reduction in his assessment would be \$9,144 and reduce his assessed value to \$142,856.

Lockhart testified at hearing that he did not consider differences in size, age, or dwelling design and believed averages were the appropriate measure for his equity comparisons. He testified that he believed his bathroom count should be 2.5 baths, not 3 baths. He did not adjust his comparables, but relied on advice from informal discussions with local realtors.

Lockhart claims three areas of his assessment are in error. First, he notes an above-ground pool on his property record card that does not exist. This error was corrected by the Board of Review and the property record card indicates the pool was listed as N/C (No Cost) and not valued in the assessment. The pool has been removed from the property record card, but this deletion does not result in any value change.

Secondly, he believes the bathroom count is incorrect, in that, he has one full bath and two shower baths, not three full baths. He contends this miscount results in an additional \$800 of assessed value. Of the property record cards in the exhibits, only the property at 6921 Brentwood Dr NE has one full bath and two shower stall baths like the subject property. The cost report for that property indicates the base value before applying physical depreciation, grade multiplier, and map factor is \$4800 which is the same cost attributed to the subject property's baths. Other properties with lower bath costs differ from the subject property in their plumbing fixtures, which results in lower base costs.

Thirdly, in his opinion, the 18% physical depreciation on his home should be increased by 5% to be similar with other homes in the area. He estimates this change would result in \$7,600 additional deduction for physical depreciation. The physical depreciation of a structure is determined by the effective age of the dwelling, considering the actual age and remodeling, and its condition, not the average physical depreciation of the neighborhood. Most of Lockhart's equity comparables were built in 1973, are in normal condition, and have physical depreciation of 19%. Lockhart's dwelling was

built in 1976, is in normal condition, and has 18% physical depreciation. We find no merit to this claim of error.

Finally, Lockhart believes the recent designation of his dwelling in the 100-Year Flood Zone has resulted in a 5.5% decrease in its value. He bases his assumption on insurance premiums and two studies. The first study measured the effect of flood hazard on property values in Pitt County, North Carolina between 1998 and 2002 before and after Hurricane Floyd. It concluded that home sales were 6.6% lower in flood plains and the capitalized insurance premium value represents approximately 4% the selling price of these homes. While this study recognized a significantly lower house value attributed to flood hazard, this effect showed declining values specific to that time and location, and can not be generalized to the subject property located in Iowa in 2011 without supporting local sales data.

The second study focused on an assessment of the effect on California property values after a law was passed mandating hazard disclosure in property sales. Generally, it concluded a 4.1% decrease in flood zone home values after flood and fire hazard disclosure became mandatory under California law in 1998. Again, these statistics demonstrate a decline in home values after flood hazard disclosure specific to the state of California comparing sales occurring eighteen months before the enactment of the law in June 1998 to nineteen months after implementation. The results lack current application to 2011 home values in the subject property's 100-Year Flood Zone area of Cedar Rapids, Iowa. While both of these studies recognized decline in home values related to flood hazard, current and local sales data comparing pre-flood zone and post-flood zone designation, which is specific to the subject property's location, is necessary to determine any effect on Lockhart's property value. Additionally, since the designation took place in 2010 its potential effect will likely only be evident in future sales data. We find the study fails to support Lockhart's claim of market decline resulting in over-assessment of the subject property.

Although his property was not affected by the Flood of 2008, in his opinion the recent designation of his property within the 100-Year Flood Zone should have a negative impact on its value and reduce the assessment.

The Board of Review submitted five equity comparables of similar sized, one-story, frame dwellings in Bowman Woods Subdivision built between 1967 and 1976. It adjusted them for differences in site, basement size and finish, bath fixtures, garage size, physical depreciation, and other amenities. The dwellings' quality grades range from average to good (4+10 to 3-5). The subject property is good quality (3-10). The properties have sites similar in size to the subject property; have two-car, attached garages, and all have a fireplace. However, three of the properties do have more basement finish than Lockhart's dwelling. All are in normal condition, except one property which is in above-normal condition to reflect kitchen remodeling. Comparing the adjustments and cost reports, it is apparent the adjustments to the assessed values are based on a cost approach, not the preferred market approach to valuation. Despite this deficiency, the adjusted values do support the assessment of the subject property. The following chart summarizes the net adjustment table values.

Address	Assessed Value	TSFLA	AVPSF	Yr Built	Adjusted Value	Adjusted VPSF
6806 Brentwood Dr NE	\$ 165,119	1413	\$ 116.86	1973	\$ 154,629	\$ 109.43
7103 Brentwood Dr NE	\$ 167,781	1452	\$ 115.55	1976	\$ 153,548	\$ 105.75
211 Cambridge Dr NE	\$ 164,416	1424	\$ 115.46	1976	\$ 153,554	\$ 107.83
220 Crandall Dr NE	\$ 169,467	1372	\$ 123.52	1967	\$ 152,911	\$ 111.45
105 Cambridge Dr NW	\$ 169,697	1396	\$ 121.56	1976	\$ 146,514	\$ 104.95
Subject Property	\$ 152,000	1456	\$ 104.39	1976		

The Board of Review also provided three market comparables on Brentwood Dr NE of fairly similar sized, one-story, frame dwellings built in 1973 and in normal condition. The comparables were adjusted for differences in site, basement size and finish, bath fixtures, garage size, physical depreciation, and other amenities. Unadjusted 2010 sale prices ranged from \$161,000 to \$166,500.

Adjusted sales prices ranged from \$164,371 to \$172,378, or \$121.99 to \$130.45 per square foot.

Although it is unclear whether these properties are in the 100-Year Flood Zone, they appear within close proximity to the subject property on the parcel map and the adjusted sales support the assessed value of the subject property. The following chart summarizes the sale comparable data.

Address	TSFLA	SF Garage	SF Base Finish	Sale Date	Sales Price	\$SPSF	Adjust \$SF	AV	AVPSF
6806 Brentwood Dr NE	1413	520	400	8/3/2010	\$166,000	\$117.48	\$ 121.99	\$ 165,119	\$ 116.86
6921 Brentwood Dr NE	1280	440	610	6/4/2010	\$161,000	\$125.78	\$ 128.41	\$ 163,714	\$ 127.90
6910 Brentwood Dr NE	1280	520	435	10/11/2010	\$166,500	\$130.08	\$ 130.45	\$ 166,823	\$ 130.33
Subject	1456	420	520					\$ 152,000	\$ 104.40

The Board of Review reports it reduced the original 2009 assessment from \$159,158 to \$152,000, which the current assessed value. In response to Lockhart's claim of a declining market, it provided paired-sales data from 2008 to 2010 for the Northeast quadrant of the City of Cedar Rapids showing a positive 0.14% appreciation in this market area. This data is generalized from sales in the NE quadrant of the City and not relevant to Lockhart's specific claim that his property has declined in value.

Julie Carson of the Assessor's office testified that using the *Iowa Manual* full baths and three-quarter baths are valued equally. She testified that paired sales in Lockhart's area do not demonstrate a decline in value, but instead a stable increase in value since 2008. Carson reported that an old study compared areas of frequent floods (annual) to measure the effects of flooding in Cedar Rapids in 1993 and 2008, and concluded no decline in property values in affected flood areas.

While this Board appreciates Lockhart's thorough and logical presentation of his evidence, both in exhibits and testimony, we agree with the Board of Review decision. The preponderance of the evidence does not support a finding that Lockhart's property is inequitably assessed or assessed for more than its fair market value. Likewise, we are not convinced of the merit of his error claims based on the above-ground swimming pool, the physical depreciation, or the bath room costs.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell*

*v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Lockhart's evidence does not support a claim of inequity under either test.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Lockhart's evidence does not support a claim that the property is assessed for more than authorized by law.

Lockhart claimed there are errors in his assessment. Section 441.37(1)(d) is not limited solely to clerical or mathematical errors. The plain language of section 441.37(1)(d), on which the appellant rests his claim, allows a protest on the ground "[t]hat here is an error in the assessment."

§441.21(1)(d). The administrative rule interpreting this section indicates that the error may be more than what is alleged by the Board of Review. While "[a]n error in the assessment *would most probably* involve erroneous mathematical computations or errors in listing the property[.] [t]he improper classification of property also constitutes an error in the assessment," Iowa Administrative r. 701-71.20(4)(b)(4) (2008) (emphasis added). This language suggests that other errors may constitute grounds for appeal pursuant to section 441.37(1)(d). The evidence did show a listing error regarding the above-ground pool that had previously been removed from the parcel. This error was corrected by the Board of Review and since it was listed with no charge, this correction did not result in a reduction in the assessed value. Additionally, the preponderance of the evidence did not support Lockhart's claims of error regarding the bath room costs or the physical depreciation of the subject property.

Viewing the evidence as a whole, we determine that the preponderance of the evidence does not support Lockhart's claims of inequity, over-assessment, or error as of January 1, 2011. Therefore, we affirm the Lockhart property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$152,000, representing \$23,068 in land value and \$128,932 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the City of Cedar Rapids Board of Review is affirmed.

Dated this 7<sup>th</sup> day of February 2012.

Jacqueline Rypma  
Jacqueline Rypma, Presiding Officer

Richard Stradley  
Richard Stradley, Board Chair

Karen Oberman  
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2/7</u> , 201 <u>2</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>